

HIGH COURT OF GUJARAT AT AHMEDABAD

MISC. CIVIL APPLICATION NO. 319 OF 1994.

Date of decision: 15.11.1995.

For approval and signature

The Honourable Mr. Justice S.M. Soni

and

The Honourable Mr. Justice R.R.Jain

Mr.C.H. Vora, advocate for applicant.

Mr.S.R.Brahmbhatt, advocate for respondent No.1.

Mr.B.B.Naik, advocate for respondent No.2.

1. Whether Reporters of Local Papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

Coram:S.M.Soni & R.R.Jain, JJ.

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November 15, 1995.

Oral judgment (Per Soni,J.)

This application is filed for taking action under the Contempt of the Courts Act for non-compliance of this court's order (Coram: A.N.Divecha,J) in S.C.A.No.6981/91 dated 14.3.1993. By the said order, this Court held as under:

' It is therefore desirable that the petitioner's case for promotion to the post of Chief Engineer from the date the vacancy occurred is decided as early and as expeditiously as possible. Rule is accordingly made absolute with costs."

Non-compliance of the order is alleged by the applicant. Notice was ordered to issue. In response to the said notice, affidavit in reply was filed by one Mr. R.Ravikumar, under Secretary, Government of India. In the affidavit in reply dated 8.4.1994, in para 3, it is specifically stated that the order of the court is complied with. Para 3 of the affidavit in reply reads as under:

"No disrespect whatsoever was intended while the earlier order of promotion dated 1/4.6.1993 was passed. The Ministry and its officers are always respecting the orders of the court and they are always complying with the same. The earlier order of promotion of petitioner was not passed in willful and deliberate violation of the direction issued by this Hon'ble Court. It is reiterated that it is only as a result of misunderstanding of the directions, the retrospective promotion was not given. This respondent has highest regard to the Hon'ble High Court and there was no intention to show any disrespect to orders of the High Court."

In view of this, it can be said that the contempt, if any, stands purged. While giving direction, this court had not given any specific direction with a time schedule. However, when the order is complied with and when the contempt stands purged, in our opinion, nothing further requires to be done as we are satisfied that the delay, if any, in implementing the order is explained.

Learned advocate for the applicant contents that the order for cost is not complied with. Non-compliance of the order for cost simpliciter in the facts and circumstances of the case cannot be said to be a contempt of court.

In view of the above discussion, the application is liable to be dismissed and is hereby dismissed. Rule discharged. No costs.